

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DOC #:  
DATE FILED: 12/12/08

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IN RE SEPTEMBER 11TH LITIGATION

:  
: **CASE MANAGEMENT**  
: **ORDER NO. 8**  
:

: 21 MC 100 (AKH)  
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ALVIN K. HELLERSTEIN, U.S.D.J.:

I have heard and considered recommendations, including those presented at the December 10, 2008 Status Conference, from the parties and the Special Masters regarding the case management plan in this matter. I order that the protocol outlined below, and illustrated in the attached chart, is the Case Management Order No. 8 for onward progression of these cases towards final resolution.

1. Divide the aggregate number of plaintiffs into five groups.
  - A. Group A: Cases with case index numbers 1 – 2000
  - B. Group B: Cases with case index numbers 2001 – 4000
  - C. Group C: Cases with case index numbers 4001 – 6000
  - D. Group D: Cases with case index numbers 6001 – 8000
  - E. Group E: Cases with case index numbers 8001 – (highest index #)
  
2. Forty days after this process commences, the parties must deliver to the Special Masters responses, under oaths of plaintiffs and defendants, for Group A, in index number sequence, fully and truthfully answering the following set of 35 data entry points (“Severity and Other Fields” or “SOF”) from the November 26, 2008 Discovery Database (“Database”).
  - A. Case profile information (data entry points 2 – 6)
  - B. Duration of exposure at World Trade Center site (data entry points 72 – 81)
  - C. Plaintiff’s pre-existing disorders (data entry points 108 – 114)
  - D. Severity of claimed illnesses (data entry points 201– 212)
  - E. Conditions, injuries, and diseases for which plaintiff seeks recovery (data entry point 131)
    - i. NOTE: Point 131’s wording has been altered slightly from the November 26, 2008 Discovery Database. It now reads: “For which diagnosed condition(s),

injury(s), disease(s) does PE seek recovery?"

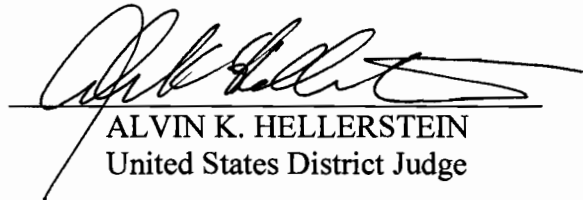
3. Within ten days, the Special Masters shall identify:
  - A. Group A1: 200 cases ranked most severe in Group A
  - B. Group A2: 25 cases selected from the remainder of Group A
  - C. Group A3: 400 additional cases selected randomly from the remainder of Group A
  - D. Group A4: All remaining cases within Group A
4. Forty days later, the parties shall populate the entire Database for Groups A1 and A2, fully and truthfully answering all data entry points, under oaths of plaintiffs and responding defendants.
5. Five days later, plaintiffs' Liason Counsel and defendants' Liason Counsel shall each have identified two Group A1 cases for discovery and trial.
  - A. The parties may make their selection(s) any time after Group A1 is designated.
  - B. Once a case has been selected, discovery will commence promptly and will be permitted on all issues relevant for discovery and trial, including information disclosed in response to database queries.
  - C. The discovery completion date, the final date for filing motions, the date upon which parties will argue motions, and the trial date appear in the attached chart.
  - D. Note: The Court chose to vary the Groups' motion practice schedules based on the assumption that much of discovery and motion practice for later-sequenced cases is likely to cover the same ground.
  - E. Note: The Court chose to set common trial dates to insure that selected cases from later Groups will be ready to replace like selected cases from earlier Groups that settle just prior to trial.
6. On or before the same day, the Court will select two additional Group A1 or Group A2 cases for discovery and trial. These two cases will also proceed through discovery and trial as set out in "Step 5 A-E."
7. Eighty days after database completion is required for Groups A1 and A2, entire Database completion is due for Group A3.
8. Five days later, plaintiffs' Liason Counsel and defendants' Liason Counsel shall each have identified two Group A3 cases for discovery only. In addition, the Court will select two additional A3 cases for discovery only.
9. The protocol in Steps 2 through 8 shall be accomplished for Groups B through E. Each Group will begin this process 40 days after the previous Group begins.
10. The entire Database will be completed for Groups A4, B4, C4, D4, and E4 on or before January 1, 2011.

11. This process will commence (and “Day 1” for purposes of the attached chart will be) January 1, 2009. Weekends and legal holidays are included even when set time periods are brief.
12. If a case chosen for discovery settles significantly prior to the date upon which discovery must conclude, plaintiffs or defendants may ask the Court to substitute another case from the same subgroup.

In addition, the Court will hear any objections to the Database at a conference on January 6, 2009 at 4:00 p.m. By January 11, 2009, the defendants shall populate Database Fields 307 – 320 (relating to insurance information), fully and truthfully, under oaths and deliver the responses to the Special Masters.

SO ORDERED.

Date: December 12, 2008  
New York, New York

  
ALVIN K. HELLERSTEIN  
United States District Judge

| Group A (Index #s: 1-2000)    |    |                              |  | DAY  | 40                       | 50                       | 80   | 90  | 95 | 120 | 130 | 135 | 160 | 170 | 175 | 200 |
|-------------------------------|----|------------------------------|--|--|--------------------------|--------------------------|--|---|----|-----|-----|-----|-----|-----|-----|-----|
| Group A (Index #s: 1-2000)    | A1 | 200 cases ranked most severe | Severity and Other Fields Finished for Group A | Special Masters have determined 200 cases ranked most severe (A1); selected a set of 25 additional cases (A2); and selected a set of 400 additional cases at random (A3). Remaining cases are in Group A4. | Completed Database on A1 | Completed Database on A2 | Each Party has chosen 2 cases for discovery and trial from A1. | Court to choose 2 more cases from A1 and/or A2 for discovery and trial. |    |     |     |     |     |     |     |     |
|                               | A2 | 25 selected cases            |  |  |                          |                          |  |   |    |     |     |     |     |     |     |     |
|                               | A3 | 400 randomly selected cases  |  |  |                          |                          |  |   |    |     |     |     |     |     |     |     |
|                               | A4 | remaining cases              |  |  |                          |                          |  |   |    |     |     |     |     |     |     |     |
| Group B (Index #s: 2001-4000) | B1 | 200 cases ranked most severe | Severity and Other Fields Finished for Group B | Special Masters have determined 200 cases ranked most severe (B1); selected a set of 25 additional cases (B2); and selected a set of 400 additional cases at random (B3). Remaining cases are in Group B4. | Completed Database on B1 | Completed Database on B2 | Each Party has chosen 2 cases for discovery and trial from B1. | Court to choose 2 more cases from B1 and/or B2 for discovery and trial. |    |     |     |     |     |     |     |     |
|                               | B2 | 25 selected cases            |  |  |                          |                          |  |   |    |     |     |     |     |     |     |     |
|                               | B3 | 400 randomly selected cases  |  |  |                          |                          |  |   |    |     |     |     |     |     |     |     |
|                               | B4 | remaining cases              |  |  |                          |                          |  |   |    |     |     |     |     |     |     |     |
| Group C (Index #s: 4001-6000) | C1 | 200 cases ranked most severe | Severity and Other Fields                      | Special Masters have determined 200 cases ranked most severe (C1); selected a set of 25 additional   | Completed Database on C1 | Completed Database on C2 | Each Party has chosen 2 cases for discovery and trial from C1. | Court to choose 2 more cases from C1 and/or C2 for discovery and trial. |    |     |     |     |     |     |     |     |
|                               | C2 | 25 selected cases            |  |  |                          |                          |  |   |    |     |     |     |     |     |     |     |

[illegible]

**Pursuant to Court Order of December 12, 2008**

[illegible]





| 400            | 405                    | 410               | 435               | 440            | 445                    | 465            | 475               | 485            | 501                    | 730                      |
|----------------|------------------------|-------------------|-------------------|----------------|------------------------|----------------|-------------------|----------------|------------------------|--------------------------|
| Motions Argued |                        |                   |                   |                |                        |                |                   |                | <u>Trials to Begin</u> |                          |
|                |                        | All Motions Filed |                   | Motions Argued |                        |                |                   |                | <u>Trials to Begin</u> |                          |
|                |                        |                   |                   |                |                        |                |                   |                |                        |                          |
|                |                        |                   |                   |                |                        |                |                   |                |                        | Completed Database on A4 |
|                |                        | All Motions Filed |                   | Motions Argued |                        |                |                   |                | <u>Trials to Begin</u> |                          |
|                | Discovery is concluded | All Motions Filed |                   | Motions Argued |                        |                |                   |                | <u>Trials to Begin</u> |                          |
|                | Discovery is concluded |                   |                   |                |                        |                |                   |                |                        |                          |
|                |                        |                   |                   |                |                        |                |                   |                |                        | Completed Database on B4 |
|                | Discovery is concluded |                   | All Motions Filed |                |                        | Motions Argued |                   |                | <u>Trials to Begin</u> |                          |
|                |                        |                   |                   |                | Discovery is concluded |                | All Motions Filed | Motions Argued | <u>Trials to Begin</u> |                          |



|  |  |  |  |  |                              |  |                         |                   |                                |                                |
|--|--|--|--|--|------------------------------|--|-------------------------|-------------------|--------------------------------|--------------------------------|
|  |  |  |  |  | Discovery<br>is<br>concluded |  |                         |                   |                                |                                |
|  |  |  |  |  |                              |  |                         |                   |                                | Completed<br>Database on<br>C4 |
|  |  |  |  |  | Discovery<br>is<br>concluded |  | All<br>Motions<br>Filed | Motions<br>Argued | <u>Trials<br/>to<br/>Begin</u> |                                |
|  |  |  |  |  | Discovery<br>is<br>concluded |  | All<br>Motions<br>Filed | Motions<br>Argued | <u>Trials<br/>to<br/>Begin</u> |                                |
|  |  |  |  |  | Discovery<br>is<br>concluded |  |                         |                   |                                |                                |
|  |  |  |  |  |                              |  |                         |                   |                                | Completed<br>Database on<br>D4 |
|  |  |  |  |  | Discovery<br>is<br>concluded |  | All<br>Motions<br>Filed | Motions<br>Argued | <u>Trials<br/>to<br/>Begin</u> |                                |
|  |  |  |  |  | Discovery<br>is<br>concluded |  | All<br>Motions<br>Filed | Motions<br>Argued | <u>Trials<br/>to<br/>Begin</u> |                                |
|  |  |  |  |  | Discovery<br>is<br>concluded |  |                         |                   |                                |                                |
|  |  |  |  |  |                              |  |                         |                   |                                | Completed<br>Database on<br>E4 |